

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

VENGAI CHIKONYERA,	:	CIVIL NO. 3:CV-05-1366
	:	
Petitioner	:	(Judge Conaboy)
	:	
v.	:	(Magistrate Judge Blewitt)
	:	
CHESTER COUNTY DISTRICT ATTORNEY,	:	
et al.,	:	
Respondents	:	

REPORT AND RECOMMENDATION

Vengai Chikonyera, an inmate at the York County Prison, York, Pennsylvania, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on July 7, 2005.

A 28 U.S.C. §2254 petition may be brought in the federal judicial district in which the state court of the conviction is located and, when the prisoner is confined in a prison located in another federal district in the same state as the state of conviction, the petition may be brought in the district of confinement. The district court for the district in which the petition is filed may transfer the petition to the district court for the district of the conviction when to do so is in the interests of justice. 28 U.S.C. §2241(d).

Petitioner is challenging a 2004 guilty plea and conviction for simple assault in the Chester County Court of Common Pleas. Petitioner claims that he did not voluntarily enter into a guilty plea, and he seeks to withdraw his guilty plea.¹

The petitioner is a prisoner at the York County Prison, York, Pennsylvania, which is in this district. He is challenging a conviction in Chester County, Pennsylvania, which is in the Eastern District of Pennsylvania. All records of conviction, transcripts of proceedings, witnesses, and counsel, which are at issue in this habeas petition, are located within the Eastern District of Pennsylvania.

It will be in the interests of justice to transfer this petition to the United States District Court for the Eastern District of Pennsylvania.

Based on the foregoing, it is respectfully recommended that this case be transferred to the United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C. §2241(d).

s/ Thomas M. Blewitt
THOMAS M. BLEWITT
United States Magistrate Judge

Dated: July 18, 2005

¹Petitioner seeks to challenge his simple assault conviction since BICE has used it for purposes of removal proceedings against him, and in Immigration Court has ordered his removal.

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NOTICE

NOTICE IS HEREBY GIVEN that the undersigned has entered the foregoing
Report and Recommendation dated **July 18, 2005**.

Any party may obtain a review of the Report and Recommendation pursuant to
Rule 72.3, which provides:

Any party may object to a magistrate judge's proposed findings, recommendations or report addressing a motion or matter described in 28 U.S.C. § 636 (b)(1)(B) or making a recommendation for the disposition of a prisoner case or a habeas corpus petition within ten (10) days after being served with a copy thereof. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. The briefing requirements set forth in Local Rule 72.2 shall apply. A judge shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection

is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the

magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.

s/ Thomas M. Blewitt
THOMAS M. BLEWITT
United States Magistrate Judge

Dated: July 18, 2005